

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
CARL UMUNNA,

Plaintiff,

- against -

THE CITY OF NEW YORK, et al.,

Defendants.
-----x

07 Civ. 8791 (CM) (DFE)

This is an ECF case

MEMORANDUM AND ORDER

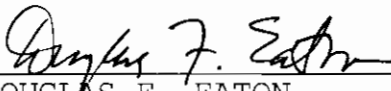
DOUGLAS F. EATON, United States Magistrate Judge.

Judge McMahon (by oral order on May 27, 2008, and by written order on May 28) issued an Order of Reference to me, to rule on a specific discovery dispute. On May 27, from 10:56 to 11:38, I held a telephone conference during the deposition of Ana Reyes (the one defendant who is represented by Perry Friedman rather than by ACC Hugh Zuber). The reporter at the deposition transcribed the entire conference, as well as the questioning that led the attorneys to telephone me. In essence, plaintiff's counsel O. Valentine Nnebe was requesting Ms. Reyes to authorize him to obtain records for her home telephone and her cellphone - - the records of all calls from October 20, 2006 to February 4, 2007. Mr. Friedman was objecting. I directed Mr. Friedman to ascertain, and to advise Mr. Nnebe, whether the phone companies still possess such records. (It turns out that they do.) I directed Mr. Nnebe and Mr. Friedman to send me a single joint letter concerning their dispute.

Almost three months later, on August 22, while I was on vacation, my staff (a) received a lengthy fax from Mr. Friedman followed by a lengthy fax from Mr. Nnebe, and (b) granted Mr. Friedman until September 9 to send me a reply to Mr. Nnebe's arguments. The August 22 faxes show as follows. By e-mail on June 16, Mr. Nnebe wrote to Mr. Friedman: "I am yet to receive the transcript of Ms. Reyes['s] deposition, and will forward it to you as soon as I receive it." By e-mail on July 29, Mr. Nnebe noted that he was in receipt of three copies of the transcript, but essentially he is refusing to let the witness see a copy of her testimony unless she pays \$292.07. On August 22, Mr. Nnebe sent Mr. Friedman (but not me) the portion of the transcript that covers my telephone conference.

Mr. Nnebe is asking me to compel some discovery, but he is

making my task unnecessarily time-consuming. I hereby direct Mr. Nnebe to send me, as soon as possible, (a) the portion of the transcript that covers my telephone conference, and (b) all portions of the transcript that discuss Ms. Reyes's telephone calls. I direct Mr. Nnebe to send Mr. Friedman, as soon as possible, a copy of the entire transcript of the deposition of Ms. Reyes. I allow Ms. Reyes 14 days after Mr. Friedman's receipt of the entire transcript (a) to review the transcript, and (b) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.



DOUGLAS F. EATON
United States Magistrate Judge
500 Pearl Street, Room 1360
New York, New York 10007
Telephone: (212) 805-6175
Fax: (212) 805-6181fax

Dated: New York, New York
September 5, 2008

Copies of this Memorandum and Order will be sent by electronic filing to:

O. Valentine Nnebe, Esq.
Hugh A. Zuber, Esq.
Perry S. Friedman, Esq.
Hon. Colleen McMahon